

Remarks

Claims 1-14 are pending in the current patent application. Of these pending claims, only amended Claim 1, Claim 4, and amended Claim 8 are independent claims. Since the Applicants respectfully assert that these independent claims are allowable, claims that depend from amended Claim 1, Claim 4, and amended Claim 8 are also allowable. Thus, Applicants respectfully request favorable reconsideration in view of the subsequent remarks.

Claim 1 and Claim 8 have been amended to clarify the recited subjected matter and more consistently recite similar subject matter. Like Claim 4, these amendments more explicitly indicate that said request includes at least a portion of said audible content. More specifically, this amendment adds the phrase, "including said content and," which more explicitly indicates that the request includes the previously mentioned content. The support for these amendments is found in the specification on page 9, line 13 through page 10, line 4.

In the Office Action, Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,991,737 issued on November 23, 1999 to Chen ("Chen patent"). For a *prima facie* case of obviousness, there must be a motivation to modify the reference or combine reference teachings, *and* the cited references must teach or suggest all of the claim limitations *with* a reasonable expectation of success. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). The Chen patent does not make independent Claim 1, Claim 4, or Claim 8 obvious because at least one of the above-listed requirements for obviousness has not been met. Consequently, these claims and their dependents are allowable, as further explained below.

Claim 1 recites a method for facilitating a transaction that includes detecting an electronic request transmitted from said request device, transmission initiated by said person listening to content represented by an audio signal received at a location of said person from a remote source, said request

including at least a portion of said content and indicating said person's desire to obtain a deliverable related to said content. In combination with detecting an electronic request, the method also includes matching said content to said deliverable, monitoring the transmission, and providing the deliverable.

The obviousness rejection of amended Claim 1 must fail for at least the reasons that there is no motivation to modify the reference and the Chen patent does not teach all of the claim limitations with a reasonable expectation of success. More specifically, the Chen patent neither discloses nor suggests detecting a request that includes audible content and was transmitted by a person listening to the audible content. Instead, the Chen patent discloses "if consumer 24 wishes to respond to the broadcast information, the consumer interacts with consumer transmitter 18 to cause an order to be transmitted to processing station 22 that includes data specifying the broadcast information... without specifying the content of the broadcast information. Column 4, lines 10-17 (emphasis added). Because the Chen patent explicitly excludes transmitting a request with content, the Chen patent cannot possibly include a suggestion that it should be modified for detecting a request that includes audible content and was transmitted by a person listening to the audible content as recited in amended Claim 1. As a result, there is no motivation for detecting a request that includes audible content and was transmitted by a person listening to the audible content **in combination with** matching said content to said deliverable, monitoring the transmission, and providing the deliverable. Consequently, there is no motivation to modify the Chen patent in a way that makes amended Claim 1 obvious.

Claim 4 recites a method for conducting a transaction with a person listening to transmitted audible content while operating an electronic request device that includes obtaining profile information from a person including an identification element, said profile information stored at a host site remote from said person and said person initiating recording in said device of a sample of audible content to which said person is listening. In combination with obtaining and said person initiating, the method also includes identifying said deliverable, and delivering said deliverable to said person.

The obviousness rejection of Claim 4 must fail for at least the reasons that there is no motivation to modify the reference and the Chen patent does not teach all of the claim limitations with a reasonable expectation of success. As mentioned above, the Chen patent neither discloses nor suggests said person initiating recording in said device of a sample of audible content to which said person is listening. Instead, the Chen patent discloses “specifying the broadcast information... without specifying the content of the broadcast information,” as mentioned above. Column 4, lines 14-17 (emphasis added). Because the Chen patent explicitly excludes transmitting a request with content by using a request with broadcast information, this patent cannot possibly suggest that it should be modified, such that said person initiating recording in said device of a sample of audible content to which said person is listening as recited in Claim 4. Moreover, neither the final Office Action nor the Office Action mailed on October 10, 2004 identify sections of the Chen patent that disclose or suggest the above-mentioned limitation. If the Applicants have overlooked this section, they respectfully request that the Examiner more clearly identify the relevant sections. Thus, there is no motivation for said person initiating recording in said device of a sample of audible content to which said person is listening **in combination with** obtaining profile information, said person initiating transmission of a request, identifying said deliverable, and delivering said deliverable to said person as recited in Claim 4. Consequently, there is no motivation to modify the Chen patent in a way that makes Claim 4 obvious.

Claim 8 recites a system for conducting a transaction between a person and a remote service, that includes an electronic device operable by said person with an audio input receiving a signal representing content audible to said person and a request initiator operable by said person to initiate a request for a deliverable relating to said content, wherein said request includes at least a portion of said content. In combination with the audio input and the request initiator, the system recited in Claim 8 also includes a sampler and a transmitter.

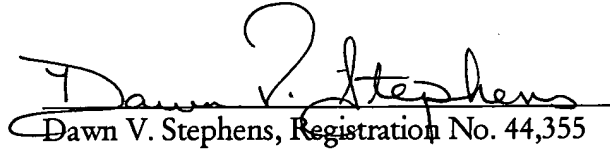
The obviousness rejection of Claim 8 must fail for at least the reasons that there is no motivation to modify the reference and the Chen patent does not teach all of the claim limitations with a reasonable expectation of success. The Chen patent neither discloses nor suggests a request initiator operable by said person to initiate a request for a deliverable relating to said content, wherein said request includes at least a portion of said content. As mentioned above, the Chen patent specifies broadcast information and not content information. Because the Chen patent explicitly excludes transmitting a request with content by using a request with broadcast information, this patent cannot possibly suggest that it should be modified, such that said request includes at least a portion of said content as recited in Claim 8. Thus, there is no motivation for a request initiator operable by said person to initiate a request for a deliverable relating to said content, wherein said request includes at least a portion of said content **in combination with** a sampler and a transmitter as recited in Claim 8. Consequently, there is no motivation to modify the Chen patent in a way that makes Claim 8 obvious.

In light of the above-mentioned remarks, Claims 1-14 are in a condition for allowance. Consequently, the Applicant respectfully requests that the claims be allowed and the current application is sent to issuance.

A fee of \$1020.00 for a three-month extension of time filing fee is due. The Commissioner is hereby authorized to apply this fee and any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

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